IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 6897 of 2007(U)

PETITIONERS:
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1. SHIBU KURIAN, AGED 45 YEARS,
S/O.ABRAHAM.K.KURIAN, SOURABH APARTMENTS,
KACHAPPILLY ROAD, VYTTILA P.O.M ERNAKULAM.

2. SUSAN CHANDY, AGED 40 YEARS,
W/O.SHIBU KURIAN, SOURABH APARTMENTS,
KACHAPPILLY ROAD, VYTTILA P.O.
ERNAKULAM.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS:
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1. THE TAHSILDAR,
KANAYANNOOR TALUK, ERNAKULAM.

2. THE STATE OF KERALA, REPRESENTED BY
PRINCIPAL SECREARY (TAXES), GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

3. THE VILLAGE OFFICER,
VILLAGE OFFICE, VYTTILA.

BY SPL. GOVERNMENT PLEADER SRI. V.V.ASOKAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007 ALONG WITH WPC NO. 7180/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 6897/2007 U

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RECIEPT DT. 27/6/2002 OF THE KOCHI CORPN.

EXT.P2. COPY OF THE RECEIPTS DT. 29/4/03 & 30/11/06 OF KOCHI CORPN.

EXT.P3. COPY OF THE ORDER NO. B14853/06 DT. 12/1/07 OF THE R1.

EXT.P4. COPY OF THE OBJECTION DYT. 19/1/07 OF THE PETITIOENRS.

EXT.P5. COPY OF THE B14853/06 DT. 13/2/2007 OF THE R1 ORDER OF THE ASSESSMENT AND NOTICE OF DEMAND.

EXT.P6. COPY OF THE RESIDENCE CERTIFICATE DT. 22/4/03 BY THE R3.

EXT.P7. COPY OF THE POSSESSION CERTIFICATE DT. 15/11/2002 BY R3.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C).Nos. 6897 of 2007-U & 7180 of 2007-D

Dated this the 6th day of March, 2007

JUDGMENT

In these writ petitions the assessment has been made making 2 flat owners liable for the entire 8 flats in the complex. The learned Special Government Pleader, upon instruction, submitted that the said order will be recalled and fresh orders will be passed, in accordance with law. This submission is recorded.

2. In think before closing the writ petitions, I may observe something more. In so many cases, similar irregular assessments have been made. I think the assessing authority shall issue notice to the owners of the land, the builder, the owners of the flat or other assignees, if any, while making the assessment. The Building Tax will be a charge on the building. Therefore, normally, ultimately the liability to pay the same may fall on the present owners. But, who is actually liable to pay it is a matter of contract between the parties. The Tahasildar may consider passing of rectification orders in similar orders, which have been passed without proper notice to parties.

The Writ Petitions are disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS